

REMARKS

Claims 1-8 and 16-24 are pending in this application.

By this Amendment, claim 24 is amended to remove language recited therein and claims 9-15 are canceled. Thus, no new matter is added by this Amendment.

Entry of the amendments is proper under 37 CFR §1.116 and §1.196 since the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration as the amendments merely cancel claims and amend claim 24 to satisfy a requirement of form asserted for the first time in the decision on appeal by the board; and (c) do not present any additional claims without canceling a corresponding number of finally rejected claims. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the decision on appeal by the board. Entry of the amendments is thus respectfully requested.

I. Decision on Appeal

The rejection of claims 1-12 and 14-24 under 35 U.S.C. §102(b) over U.S. Patent No. 5,149,217 (Narita); claims 1, 3-12, 14, 16 and 18-24 under 35 U.S.C. §102(e) over U.S. Patent No. 6,312,177 (Nureki); and claims 2, 13, 15 and 17 under 35 U.S.C. §103(a) over Narita, Nureki and/or U.S. Patent No. 4,519,700 (Barker) were appealed to the Board of Patent Appeals and Interferences on December 24, 2003. The Board reversed the rejections of claims 1-8 and 16-24, affirmed the rejections of claims 9-15 and entered a new ground of rejection of claim 24.

A. Reversal of the Rejection of Claims 1-8 and 16-24

Applicants thank the Board for reversing the rejection of claims 1-8 and 16-24. Applicants submit that at least claims 1-8 and 16-23 are in condition for allowance.

B. Affirmance of the Rejection of Claims 9-15

In response to the Boards decision to affirm the rejection of claims 9-15, Applicants herein cancel claims 9-15.

C. New Grounds of Rejection of Claim 24

The Board newly rejects claim 24 under 35 U.S.C. §101 and under 35 U.S.C. §112, second paragraph. Specifically, the Board asserts that claim 24 encompasses two statutory categories, i.e., apparatus and method, which violates 35 U.S.C. §101; and is unclear as to whether claim 24 claims an apparatus or method, which violates 35 U.S.C. §112, second paragraph.

Applicants herein amend claim 24 to remove language directed to a method. Thus, Applicants submit the amendment to claim 24 overcomes the new grounds of rejection.

Withdrawal of the rejections is thus requested.

II. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the pending claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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